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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/063,476	04/26/2002	George D. Jamison	2036-003-03	1181
996	7590	02/12/2004	EXAMINER	
GRAYBEAL, JACKSON, HALEY LLP 155 - 108TH AVENUE NE SUITE 350 BELLEVUE, WA 98004-5901			MAI, TRI M	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 02/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/063,476

Applicant(s)

JAMISON ET AL.

Examiner

Tri M. Mai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-23 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-10 and 12-22 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. Claims 1, 4, 7-12, and 14-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Rasmussen et al. (3141598). Rasmusen teaches a first top flap 23 with an attachment strip (the glue strip) and a tear strip 29, a second top flap 25 with an attachment strip (the glue strip) and a tear strip 31, a third top flap 24, and a fourth top flap 26. The attachment strip of the first top flap 23 is attachable to the third top flap 24, and the attachment strip of the second top flap 25 is attachable to the fourth top flap 26. The third and fourth flap are releasable when both tear strips are operated.

The term “use” does not impart any structure over the container of Rasmussen.

Regarding claim 4, the attachment strips are attached to both the third and fourth flaps in the closed position.

Regarding claim 16, Rasmussen teaches attaching the attachment strip on panels 23 to a third top flap, and attaching an attachment strip on panels 25 to a fourth top flap, and the removing of the tear strip from the top flap. Note that the claim does not require the steps to be taken sequentially.

2. Claims 2, and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rasmusen in view of Lane (5299734). Lane teaches a glue flap 40 and the container can be square. It would have been obvious to one of ordinary skill in the art to provide the glue flap in Rasmusen as taught by Lane to attach the sidewalls together.

It would have been obvious to one of ordinary skill in the art to provide a square box in Rasmusen as taught by Lane to provide the desired volume of the container.

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3. Claims 6, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rasmusen in view of Giacovas. Rasmusen meets all claimed limitations except for the double tape. Giacovas teaches that it is known in the art to provide the double tape as shown in 1A. It would have been obvious to one of ordinary skill in the art to provide the double tape in the modified container of Rasmusen as taught by Giacovas to provide an alternative attachment means.

Allowable Subject Matter

4. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claims 21-23 are allowed.

6. It is noted that the rejection of Roccaforte in view of Jensen is withdrawn. Roccaforte fails to teach the second top flap is attachable to the first top flap in a subsequent use of the box. It is noted that fig. 8 shows the first use when the first top flap 328 attachable to the second top flap 344. After the tearing of portion 331, it is noted that the second top flap 344 is unable to attach to the first flap as set forth by the claim.

Response to Arguments

7. Applicant's arguments with respect to claims have been considered they are not persuasive. With respect to the box being closed during a use, the box in Rasmussen can be used in a variety of ways even when the two flaps are closed. Applicant argues that the Rasmussen fails to teach the box that can be closed a second time. However, no where in the claim that

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suggest "a use comprising a sealing and tearing of the tear strip". "A use" can be interpreted broadly, e.g. the box can be used as a seat, a door stopper, etc.

Conclusion

8. **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (703)308-1038. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (703)308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3579 for regular communications and (703)305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.

TRI M. MAI
PRIMARY EXAMINER

T. Mai